

FEDERAL COMMUNICATIONS COMMISSION
445 12th Street, S.W.
WASHINGTON DC 20554

MEDIA BUREAU
AUDIO DIVISION
TECHNICAL PROCESSING GROUP
APPLICATION STATUS: (202) 418-2730
HOME PAGE: www.fcc.gov/mb/audio

PROCESSING ENGINEER: Larry Hannif-Ali
TELEPHONE: (202) 418-2143
FACSIMILE: (202) 418-1410
MAIL STOP: 1800B3
INTERNET ADDRESS: Larry.Hannif-Ali@fcc.gov

JUN 21 2013

Azure Media, LLC
871 N.W. 167th Street
Miami Gardens, FL 33168

In re: W299AU, Zolfo Springs, FL
BPFT-20130520AEY
Facility ID No. 138526

Dear Applicant:

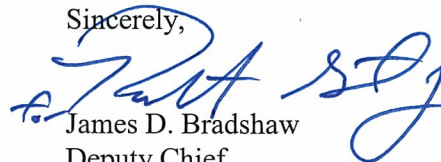
This letter refers to the above-captioned translator application for W299AU, Zolfo Springs, Florida.

An engineering study reveals that the application is in violation of Section 74.1233(a)(1) of the Commission's Rules. Specifically, the proposed 60 dBu service area fails to provide service to some portion of its 60 dBu licensed service area, (BLFT-20080128ACX). The applicant recognizes this violation and requests waiver of Section 74.1233(a)(1) of the Commission's Rules claiming that the proposal satisfies the standard set forth in the Mattoon letter.¹ However, in order to use the Mattoon waiver standard, the proposed site must be mutually exclusive to its existing licensed facility. Based on the first-adjacent channel relationship between the proposed and licensed facilities, the 60 dBu protected contour and the 54 dBu interfering contour must overlap for the proposal to be considered mutually exclusive with its licensed facility. The application proposes contours that are not mutually exclusive with its licensed facility and therefore the request for waiver of Section 74.1233(a)(1) is denied.

When an applicant seeks waiver of the rules, it must plead with particularity the facts and circumstances which warrant such action. *Columbia Communications Corp. v. FCC*, 832 F.2d 139, 192 (D.C. Cir. 1987), quoting *Rio Grande Family Radio Fellowship, Inc. v. FCC*, 406 F. 2d 644, 666 (D.C. Cir 1968 (per curiam)). We have afforded Azure Media LLC's waiver request the "hard look" called for under *WAIT Radio v. FCC*, 418 F. 2d 1153 (D.C. Cir. 1969), but find that the facts and circumstances presented are not sufficient to warrant waiver of 47 CFR Section 74.1233(a)(1).

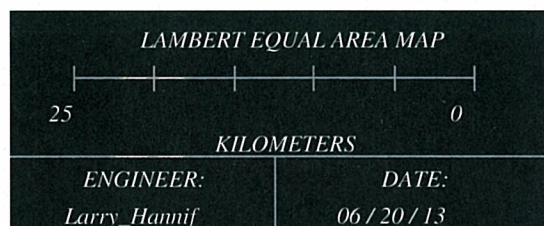
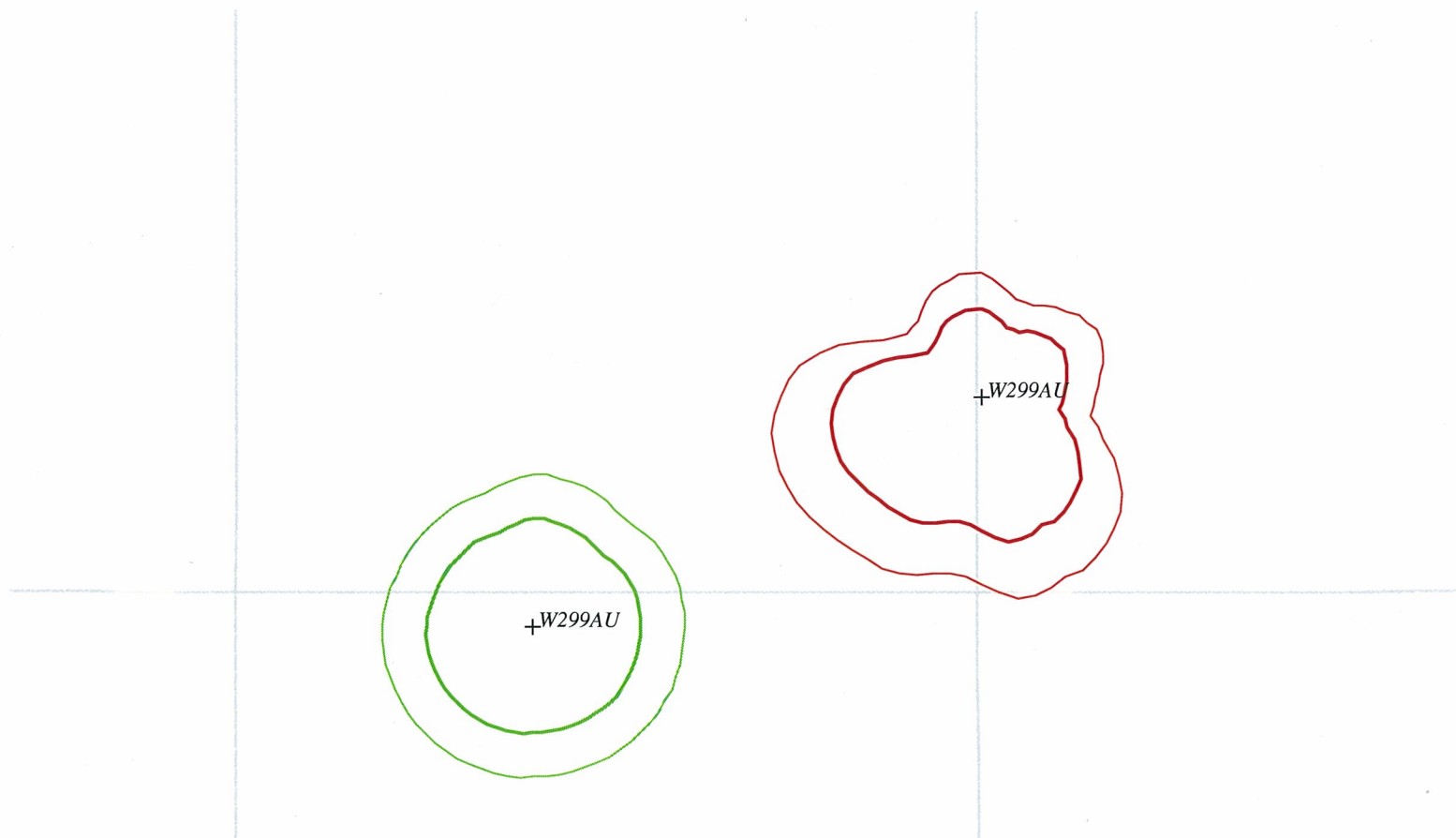
Accordingly, the request for waiver of 74.1233(a)(1), IS HEREBY DENIED, and the Application BPFT-20130520AEY IS HEREBY DISMISSED. This action is taken pursuant to 47 C.F.R. § 0.283.

Sincerely,


James D. Bradshaw
Deputy Chief
Audio Division
Media Bureau

cc: Weston McCarron

¹ *The Cromwell Group, Inc. of Illinois*, Letter, 26 FCC Rcd 12685 (MB 2011) ("Mattoon").



THE FOLLOWING IS A LIST OF THE DATA WHICH APPEARS ON THE ABOVE MAP

BOTTOM LATITUDE: 27.20 TOP LATITUDE: 27.88 LEFT LONGITUDE: -82.10 RIGHT LONGITUDE: -81.20

MAP: ENLARGED CONUS MAP PROJECTION: Lambert Equal-area CENTER LAT: 27.54 LONG: -81.65 GRID SPACING: 0.50

KILOMETERS / INCH = 12.43

PLOT MADE ON : 20 June, 2013 12:05 HOURS

call	serv	city,state	application no.	contour	chan	erp	haat	rcamsl	coverage area	A1
W299AU	FX	ZOLFO,FL	BPFT-20130520AEY	60.0 dBu (50,50)	298D	0.250	60.5	89.0	182.3 sq km	0
W299AU	FX	ZOLFO,FL	BPFT-20130520AEY	54.0 dBu (50,10)	298D	0.250	60.5	89.0	357.6 sq km	0
W299AU	FX	ZOLFO,FL	BLFT-20080128ACX	60.0 dBu (50,50)	299D	0.019	107.5	128.0	156.7 sq km	0
W299AU	FX	ZOLFO,FL	BLFT-20080128ACX	54.0 dBu (50,10)	299D	0.019	107.5	128.0	311.1 sq km	0

No topographic data is available for this location.

A1 - Number of radials where free space equation was used for field strength calculations.

A7 - Number of radials where a HAAT less than 30 meters was adjusted to 30 meters.